

**TITLE 8 DEVELOPMENT CODE**  
**DIVISION 5: OVERLAY DISTRICTS**  
**CHAPTER 3: RESOURCE PRESERVATION.**  
**Sections:**

- Article 1: AGRICULTURAL PRESERVE (AP) OVERLAY DISTRICT**  
85.030101 Intent.  
85.030105 Locational Requirements.  
85.030110 Development Standards.  
**Article 2: BIOTIC RESOURCES (BR) OVERLAY DISTRICT**  
85.030201 Intent.  
85.030210 Locational Requirements.  
85.030215 Designation.  
85.030220 Development Standards.  
**Article 3: CULTURAL RESOURCES PRESERVATION (CP) OVERLAY DISTRICT**  
85.030301 Intent.  
85.030305 Locational Requirements.  
85.030310 Designation.  
85.030315 Development Standards.  
**Article 4: MINERAL RESOURCES (MR) OVERLAY DISTRICT**  
85.030401 Intent.  
85.030405 Objectives.  
85.030410 Locational Requirements.  
85.030415 Designation.  
85.030420 Development Standards.  
85.030425 Required Information.  
**Article 5: PALEONTOLOGIC RESOURCES (PR) OVERLAY DISTRICT**  
85.030501 Intent.  
85.030510 Locational Requirements.  
85.030515 Designation.  
85.030520 Development Standards.  
**Article 6: SCENIC RESOURCES (SR) OVERLAY DISTRICT**  
85.030601 Intent.  
85.030605 Locational Requirements.  
85.030610 Development Standards.

**Article 1: AGRICULTURAL PRESERVE (AP) OVERLAY DISTRICT**

**85.030101 Intent.**

- (a) The preservation of agricultural land uses is essential to the economic well-being of the County.
- (b) The Agricultural Preserve (AP) Overlay District is created to protect vital agricultural uses by limiting land use activity to those uses which are compatible and supportive of agriculture and related uses and/or agricultural by-products.
- (c) The Agricultural Preserve Overlay District identifies those properties within an established agricultural preserve. Such properties may be subject to a Land Conservation Contract which has been executed between the landowner and the County Board of Supervisors. Such agreements offer tax advantages to the landowner and include an enumerated list of the allowed uses for the commercial production of plant and animal products which have been found to be compatible with agriculture

Readopted Ordinance 3341 (1989)

**85.030105 Locational Requirements.**

- (a) The Agricultural Preserve Overlay District shall be applied to those areas which are contained within an Agricultural Preserve as defined in the California Land Conservation Act of 1965 (Williamson Act), Government Code Section 51200, et. seq., and as designated upon the land use maps of the County General Plan.
- (b) The Agricultural Preserve Overlay District shall be designated to the following land use districts only: Resource Conservation (RC), Agriculture (AG), Rural Living (RL) and Floodway (FW).
- (c) The Agricultural Preserve Overlay District shall be designated by the symbol (AP) on the San Bernardino Official Land Use Plan.

Readopted Ordinance 3341 (1989)

#### **85.030110 Development Standards.**

When an Agricultural Preserve Overlay District is established, it shall be in conformance with the California Land Conservation Act of 1965 (Williamson Act), Government Code Section 51200, et. seq. Land and land uses proposed within an agricultural preserve must be an agricultural use or be compatible with agricultural uses. Refer to Subsection 83.040220(a)(2)(C) in Division 3 of this Title for parcel size limitations.

(a) The following list of uses have been determined to be compatible:

(1) Agricultural use, described as any use of land for the purpose of producing an agricultural commodity, consisting of any and all plant and animal products for commercial purposes, provided such use is permitted by the applicable land use district and not prohibited by other law or ordinance.

(2) A stand for display and sale of agricultural commodities produced on the premises or other premises within the preserve.

(3) Gas, electric, water, communication utility facilities, and public service facilities of like nature, operated by a public agency or mutual water company.

(4) Public highways.

(5) Fire protection works and facilities.

(6) Flood control works, including channel rectification and alteration.

(7) Public works required for fish and wildlife enhancement and preservation.

(8) Improvements for the primary benefit of the land within the preserve.

(9) State improvements described in Subsection 51293(d) of the California Government Code.

(10) Single dwelling units for the use only of an owner or manager of land within the agricultural preserve, or a person employed on said land, if such use is permitted by the applicable land use district, but not exceeding three (3) dwellings for each parcel of not less than ten (10) acres.

(11) Farm labor camps, including temporary trailer housing, subject to the provisions of this Title and all other applicable laws.

(12) Drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced.

(13) Any use existing on the date the land is included within an agricultural preserve but any such use since discontinued for two (2) years shall not be resumed unless permitted under these rules.

(14) Any use required to be permitted by an amendment to the California Land Conservation Act of 1965 hereafter adopted.

(15) "Open space uses" as defined in California Government Code Section 51201.

(16) Churches. Total square footage of all structures on site shall not exceed 12,000 square feet. Minimum parcel size shall be ten (10) acres, unless the parcel was created prior to January 1, 1991 in which case the minimum parcel size shall be five (5) acres.

(17) Agriculturally oriented schools with an approved Conditional Use Permit subject to provisions adopted by the Board of Supervisors on November 3, 1980 regarding compatibility within an Agricultural Preserve.

(18) Resource Recovery Systems which are designed for the use of animal or plant products or waste for no less than 75% of their fuel or material source (percent measured as British Thermal Unit heat content for energy generation or percent of volume of materials consumed for agricultural products averaged over the current year of operation) for the production of a commodity for the primary benefit of the agricultural community or for the generation of electrical energy, unless prohibited by other law or ordinance. Any temporary or permanent use of more than twenty-five percent (25%) non-animal or plant products or waste (percent measured as described above) by such an approved project is subject to approval by the County Planning Commission and their finding that an adequate animal or plant product or waste supply is not available to maintain the approved design output capacity of the project due to interruptions of delivery or elimination of the source beyond the feasible control of the applicant. Such Planning Commission approval to exceed twenty-five percent (25%) non-animal or plant product or waste shall apply only as long as an adequate animal or plant product or waste supply is not available and subject to prohibition by other law or ordinance.

Sludge materials shall not be permitted as an alternative source.

(19) Recreational uses as defined by California Government Code Subsections 51201(e) and (n), subject to Conditional Use Permit.

(b) Any use determined to be a compatible use in all agricultural preserves by the Board of Supervisors, after public hearing on ten (10) days published notice and such other notice, if any, as may be specified. Thereafter, such use shall be deemed a compatible use in any agricultural preserve, providing that it is not inconsistent with uses listed in Subsection 85.030110(a) above.

Readopted Ordinance 3341 (1989); Amended Ordinance 3374 (1990); Amended Ordinance 3446 (1991)

## **Article 2: BIOTIC RESOURCES (BR) OVERLAY DISTRICT**

### **85.030201 Intent.**

The purpose of the Biotic Resources (BR) Overlay District is to implement General Plan policies regarding the protection and conservation of beneficial rare and endangered plants and animal resources and their habitats which have been identified within unincorporated areas of the county.

Readopted Ordinance 3341 (1989)

### **85.030210 Locational Requirements.**

The Biotic Resources Overlay District shall be applied to unincorporated areas of the county which have been identified by a county, state or federal agency as habitat for species of unique, rare, threatened or endangered plants or animals or their habitats as listed in the County General Plan.

Readopted Ordinance 3341 (1989)

### **85.030215 Designation.**

The Biotic Resources Overlay District shall be designated by the symbol (BR) on the San Bernardino County Official Land Use Plan.

Readopted Ordinance 3341 (1989)

### **85.030220 Development Standards.**

When a land use is proposed or an existing land use is increased by more than twenty-five percent (25%) within a Biotic Resources Overlay District, the applicant shall have a report prepared identifying all biotic resources located on the site and those on adjacent parcels, which could be impacted by the proposed development. The report shall outline mitigating measures designed to reduce or eliminate impacts to the identified resource(s), and shall be submitted along with the application for the proposed development. The report shall be prepared by an appropriate expert such as a qualified biologist, botanist, herpetologist or other professional "life scientist."

The conditions of approval of any land use application shall incorporate the identified mitigating measures to protect and preserve the habitats of the identified plants and/or animals.

Readopted Ordinance 3341 (1989)

## **Article 3: CULTURAL RESOURCES PRESERVATION (CP) OVERLAY DISTRICT**

### **85.030301 Intent.**

(a) The identification and preservation of important archaeological and historical resources is necessary as many such resources are unique and non-renewable.

(b) Preservation of such cultural resources provides a greater knowledge of County history, thus promoting County identity and conserving historic and scientific amenities for the benefit of future generations.

Readopted Ordinance 3341 (1989); Amended Ordinance 3420 (1990)

### **85.030305 Locational Requirements.**

The Cultural Resources Preservation (CP) Overlay District may be applied to those areas where archaeological and historic sites which warrant preservation are known or are likely to be present.

Specific identification of known cultural resources is indicated by listing in one or more of the following inventories:

- (a) California Archaeological Inventory.
- (b) California Historic Resources Inventory.
- (c) California Historical Landmarks.
- (d) California Points of Historic Interest.
- (e) National Register of Historic Places.

Readopted Ordinance 3341 (1989); Amended Ordinance 3420 (1990)

### **85.030310 Designation.**

The Cultural Resources Preservation Overlay District shall be designated by the symbol (CP) on the San Bernardino County Natural Resource Overlay Map.

Readopted Ordinance 3341 (1989); Amended Ordinance 3420 (1990)

**85.030315 Development Standards.**

When a land use is proposed within a CP Overlay District, the following studies and actions shall be taken as specified.

(a) The presence (or absence) of archaeological and historical resources within a given project area shall be determined through an appropriate investigation by qualified personnel. A report documenting the results of such investigation shall be submitted with project application.

(b) Data recovery or protection measures shall be developed and implemented for identified cultural resources determined to be important by a qualified archaeologist or historian. Such measures may include, but are not limited to:

- (1) Site recordation.
- (2) Mapping and surface collection of artifacts, with appropriate analysis and curation.
- (3) Excavation of sub-surface deposits when present, along with appropriate analysis and artifact curation.
- (4) Preservation in an open space easement and/or dedication to an appropriate institution with provision for any necessary maintenance and protection.

(c) Archaeological and historical resources which are determined by qualified professionals to be extremely important should be preserved as open space or dedicated to a public institution when possible.

Readopted Ordinance 3341 (1989); Amended Ordinance 3420 (1990)

**Article 4: MINERAL RESOURCES (MR) OVERLAY DISTRICT****85.030401 Intent.**

(a) The extraction of mineral resources is essential to the economic well-being of the County and the needs of the society.

(b) Certain privately owned land areas of the County contain significant amounts of mineral resources. Mineral Resources Overlay Districts are created to protect these resources for present and future extractions. Since mineral extraction must take place on the physical site where the minerals naturally occur, special controls are needed to minimize conflicts with other land uses. The Mineral Resources Overlay District functions as a "holding district" since the land will be redesignated and reclaimed for other land uses when mining operations cease. Also, the district will insure that land disturbances are minimized through regulations and through the prohibition of any other land uses in these districts which are incompatible with mining.

(c) Once the mining activity ceases, the mined lands shall be reclaimed for new uses in order to prevent or minimize adverse effects on the environment and to protect the public health, safety and welfare.

Readopted Ordinance 3341 (1989)

**85.030405 Objectives.**

The Mineral Resources Overlay District shall have the following objectives:

- (a) Adverse environmental effects shall be prevented or minimized.
- (b) Mined lands shall be reclaimed to a usable condition which is readily adaptable for alternative land uses.
- (c) The production and conservation of minerals is encouraged but the mining industry shall also preserve areas relating to environmental and recreational amenities if such amenities are located within the mining locale.
- (d) Residual hazards to the public health and safety shall be eliminated.

Readopted Ordinance 3341 (1989)

**85.030410 Locational Requirements.**

The Mineral Resources Overlay District shall be applied on the following areas:

- (a) Areas with existing major surface mining activities.
- (b) Areas where mining activity is expected to take place in the future.
- (c) Areas adjacent to current or proposed mining activity to prohibit the intrusion of incompatible uses.

Readopted Ordinance 3341 (1989)

**85.030415 Designation.**

The Mineral Resources Overlay District shall be designated by the symbol (MR) on the San Bernardino County Land Use Plan.

Readopted Ordinance 3341 (1989)

**85.030420 Development Standards.**

- (a) Mineral Resources Overlay Districts shall be free from any land use that is incompatible with mining activity.

(b) When mining activity ceases, the land owner and/or mining company shall be responsible for the reclamation of the site.

(c) Reclamation shall include but not be limited to the reasonable mitigation or elimination of residual hazards.

(d) Incompatible land uses shall be suitably buffered from mining activity. Appropriate transition measures shall be taken in order to insure compatibility between mining activity and surrounding land uses.

(e) Non-mining projects located within the MR Overlay District may be approved only if the following finding is made in the affirmative:

Even though the project may otherwise be determined to be incompatible with mineral resource protection policies, conditions of approval have been applied to minimize potential conflicts with these policies.

Readopted Ordinance 3341 (1989); Amended Ordinance 3759 (1999)

#### **85.030425 Required Information.**

A Mining/Reclamation Plan describing the phasing of reclamation, in relation to the phases of the mining operation, shall be submitted for land areas which are to be included within a Mineral Resources Overlay District, subject to the provisions of this Title regarding surface mining and land reclamation and the California Surface Mining and Reclamation Act (SMARA).

Readopted Ordinance 3341 (1989)

### **Article 5: PALEONTOLOGIC RESOURCES (PR) OVERLAY DISTRICT**

#### **85.030501 Intent.**

(a) The identification and preservation of significant paleontologic (fossil) resources is necessary as many such resources are unique and non-renewable.

(b) Preservation of such paleontologic resources provides a greater knowledge of County natural history, thus promoting County identity and conserving scientific amenities for the benefit of future generations.

Readopted Ordinance 3341 (1989)

#### **85.030510 Locational Requirements.**

The Paleontologic Resources (PR) Overlay District may be applied to those areas where paleontologic resources are known to occur or are likely to be present.

Specific identification of known fossil occurrences or potential paleontologic sensitivity is indicated by listing in the locality files of one or more of the following institutions:

- (a) San Bernardino County Museum.
- (b) University of California.
- (c) Los Angeles County Museum.

Readopted Ordinance 3341 (1989)

#### **85.030515 Designation.**

The Paleontologic Resources Overlay District shall be designated by the symbol (PR) on the San Bernardino County Natural Resource Overlay Map.

Readopted Ordinance 3341 (1989)

#### **85.030520 Development Standards.**

When a land use is proposed within a PR Overlay District, the following criteria shall be used to evaluate the project's compliance with the intent of the overlay:

(a) In areas of potential but unknown sensitivity, field surveys prior to grading shall be required to establish the need for paleontologic monitoring.

(b) Projects which require grading plans and which are located in areas of known fossil occurrences within the overlay district, or that have been demonstrated to have fossils present in a field survey, shall have all mass grading monitored by trained paleontologic crews working under the direction of a qualified professional, in order that fossils exposed during grading can be recovered and preserved. Fossils include large and small vertebrate fossils; the latter recovered by screen washing of bulk samples.

(c) All recovered specimens shall be prepared to the point of identification and adequately curated into retrievable collections of an institution with appropriate staff and facilities for their scientific information potential to be preserved.

(d) A report of findings with an itemized accession inventory shall be prepared as evidence that monitoring has been successfully completed. A preliminary report shall be submitted and approved prior to granting of building permits, and a final report shall be submitted and approved prior to granting of occupancy permits. The adequacy of

paleontologic reports shall be determined in consultation with the Curator of Earth Science, San Bernardino County Museum.

(e) In no event shall the County require the applicant to pay more for mitigation [Subsections 85.030520 (b), (c), and (d) and above] within the site of the project than the following amounts:

(1) One half of one percent (.005) of the projected cost of the project, if the project is a commercial or industrial project.

(2) Three fourths of one percent (.0075) of the projected cost of the project for a housing project consisting of one (1) unit.

(3) If a housing project consists of more than one (1) unit, three fourths of one percent (.0075) of the projected cost of the first unit plus the sum of the following:

(A) Two hundred dollars (\$200) per unit for any of the next ninety-nine (99) units,

(B) One hundred fifty dollars (\$150) per unit for any of the next four hundred (400) units,

(C) One hundred dollars (\$100) per unit for units in excess of five hundred (500).

Readopted Ordinance 3341 (1989)

## **Article 6: SCENIC RESOURCES (SR) OVERLAY DISTRICT**

### **85.030601 Intent.**

The intent of the Scenic Resources Overlay District is to provide development standards that will protect, preserve and enhance the aesthetic resources of the County. Design considerations can be incorporated in many instances to allow development to coexist and not substantially interfere with the preservation of unique natural resources, roadside views and scenic corridors of such natural resources. It is also the intent of the Scenic Resources Overlay District to implement state and federal programs and regulations regarding scenic highway routes.

Readopted Ordinance 3341 (1989)

### **85.030605 Locational Requirements.**

The Scenic Resources Overlay District may be applied to the following areas:

(a) Areas with unique views of the County's desert, mountain and valley areas or any other aesthetic natural land formations.

(b) An area extending two hundred (200) feet on both sides of the ultimate road right-of-way of State and County designated Scenic Highways as set forth in the County General Plan. The area covered may vary to reflect the changing topography and vegetation along the right-of-way.

Within the Chino Hills Specific Plan area, the scenic corridor shall be defined to also include the prominent ridgelines, view windows, and view sheds shown in Figure 3-14 of the Specific Plan, and Plan Overlay Map 4.

(c) The Scenic Resources Overlay District shall be designated by the symbol (SR) on the San Bernardino County Official Land Use Plan.

Readopted Ordinance 3341 (1989)

### **85.030610 Development Standards.**

When a land use is proposed within an (SR) Overlay, the following criteria shall be used to evaluate the project compliance with the intent of the overlay:

(a) Building and Structure Placement. The building and structure placement should be compatible with and should not detract from the visual setting or obstruct significant views.

Within the Chino Hills Specific Plan, the following standards shall apply:

Site Design and Building Placement. Intensive land development proposals, including, but not limited to, residential and commercial projects, shall be designed to blend into the natural landscape and minimize visual scarring of vegetation and terrain. Individual buildings shall be sited and designed in a similar manner. The ridgeline development standards contained in Division 3 of the Chino Hills Specific Plan are particularly important within the Scenic Resources Overlay District.

(b) Review Area. Intensive land development proposals, including but not limited to, residential facilities, commercial activities and mobilehome parks shall be designed to blend into the natural landscape and maximize visual attributes of the natural vegetation and terrain. The design of said development proposals shall also provide for maintenance of a natural open space parallel to and visible from the right-of-way.

Within the Chino Hills Specific Plan, the following standards shall apply:

(1) There shall be a one hundred fifty (150) foot building setback from the centerline of each scenic highway. The setback area shall be maintained in a natural condition to the greatest extent possible. Where improvements or plantings are required, they shall conform to the character and guidelines for Carbon Canyon Village on Carbon Canyon Road, and Soquel Canyon Village on Soquel Canyon Road.

(2) Variance from established setbacks shall only be approved if one (1) or more of the following findings are made:

(A) Topographic or vegetative characteristics preclude such a setback.

(B) Topographic or vegetative characteristics provide adequate screening of buildings and parking areas from the right-of-way.

(C) Property dimensions preclude such a setback.

(c) Access Drives. Right-of-way access drives should be minimized. Developments involving concentrations of commercial activities should be designed to function as an integral unit with common parking and right-of-way access drives.

(d) Landscaping. The removal of native vegetation, especially timber, shall be minimized and replacement vegetation and landscaping shall be compatible with the local environment and, where practicable, capable of surviving with a minimum of maintenance and supplemental water. Landscaping and plantings should not obstruct significant views, either when installed or when they reach mature growth.

(e) Roads, Pedestrian Walkways, Parking and Storage Areas. Any large scale development should restrict the number of access points by providing common access roads. Parking and outside storage areas should be screened from view, to the maximum extent feasible, from either the Scenic Highway or the adjacent scenic or recreational resource by existing topography, by the placement of buildings and structures, or by landscaping and plantings which are compatible with the local environment and, where practicable, are capable of surviving with a minimum of maintenance and supplemental water.

Within the Chino Hills Specific Plan Area, trails and pathways shall conform to standards contained in Division 3 of the Chino Hills Specific Plan.

(f) Above Ground Utilities. Utilities shall be constructed and routed underground except in those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing. Above ground utilities shall be constructed and routed to minimize detrimental effects on the visual setting of the designated area. Where it is practical, above ground utilities shall be screened from view from either the Scenic Highway or the adjacent scenic or recreational resource by existing topography, or by placement of buildings and structures.

(g) Grading. The alteration of the natural topography of the site shall be minimized and shall avoid detrimental effects to the visual setting of the designated area and the existing natural drainage system. Alterations of the natural topography should be screened from view from either the scenic highway or the adjacent scenic or recreational resource by landscaping and plantings which harmonize with the natural landscape of the designated area, and which are capable of surviving with a minimum of maintenance and supplemental water.

Within the Chino Hills Specific Plan Area, grading shall conform with the grading and ridgeline development standards contained in Division 3 of the Chino Hills Specific Plan.

(h) Timber harvesting within or adjacent to the right-of-way shall be limited to that which is necessary to maintain and enhance the quality of the forest.

(i) Storage Areas. Outside storage areas associated with commercial activities shall be completely screened from view of the right-of-way with landscaping and plantings which are compatible with the local environment and are capable of surviving with a minimum of maintenance and supplemental water.

(j) Primary freestanding signs greater than eighteen (18) square feet are prohibited in the Scenic Resources Overlay District.

Readopted Ordinance 3341 (1989); Amended Ordinance 3374 (1990)